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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

Allahabad this the 19th day of October 1995.

Original Application no. 1432 of 1994.

Hon'ble Mr S.Dayal, Administrative Member.

1. Azmatullah S/o Late Shri Qurban Ali, R/o Chhote Qazipur, Gorakhpur.
2. Rizwanullah, a/a 18 Yrs, S/o Sri Azmatullah, R/o Chhote Qazipur, Gorakhpur.

.... Applicants.

C/A Sri A.K.Sinha

Versus

1. Union of India through the General Manager, N.E. Rly, Gorakhpur.
2. Chief Mechanical Engineer/Mukhya Karkhana Prabandhak, N.E.Rly, Gorakhpur.

... Respondents.

C/R Sri A.Tripathi.

ORDER

Hon'ble Mr S.Dayal, Member-A.

This is an application under Section 19 of the

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Administrative Tribunals Act, 1985.

2. The applicant seeks the following reliefs through this application.

(i) Direction to substitute the name of Rizwanullah in place of Ataullah (deceased) in TA No.584 of 1986 and pass a fresh order to this effect on the ~~lines~~ of the order passed in that case.

(ii) Setting aside of letter dated 26.4.94.

3. The facts of the case are that applicant no.1 worked as basic fitter in the Railways. He was declared medically unfit for the substantial loss of sight of both his eyes on 4.3.83. He applied for retirement and appointment of his son Atiullah. He filed original suit no. 1160 of 1986 in the District Court of Gorakhpur when he received no response from the respondents for a fairly long time seeking a direction for appointment of his son Ataullah in class IV service on compassionate ground. The application ^{was} /decided in favour of the applicant on 27.2.92 with a direction to the respondents to take a decision within four months as to why suitable appointment can not be given to the applicant since the other candidates included in the list had already been given appointment. It appears that Shri Ataullah met with an accident and died on 22.4.89. The applicant claims in his application that he had informed his counsel in Allahabad about this fact but his counsel advised that the applicant should not pray for substitution as the case would be delayed while if the matter was decided in favour, the Railway Administration would

have to give appointment to his second son. It is admitted that the TA 584 of 1986 was dismissed in default on 24.8.90 but was restored to its original number afterwards.

4. The arguments of Shri A.K. Sinha, learned counsel for the applicants and Shri Avnish Tripathi, learned counsel for the respondents were heard.

5. The relief has been asked on the ground that the applicant should not suffer for the wrong advice of his counsel. This ground has no validity because even a common man knows that a suit or case in a court of law can not be pursued in the name of a dead man. The applicant neither informed about the death of applicant no.2 in TA 584 of 1986 after 22.4.89 nor at the time of restoration of application.

6. In any case the relief by way of substitution of name of Rizwanullah in place of Ataullah is inadmissible in law. As a matter of fact the application of Shri Ataulla had abated on 22.4.89 after his death and the applicant should have filed a fresh application with justification for compassionate appointment for his second son. Instead of that he has come with a plea for substitution of name and passage of order along the lines of judgment of TA 584 of 1986.

7. The applicants have also sought cancellation of letter of Chief Factory Manager dated 26.4.94. This is a letter which seeks the information about reasons of the applicant no.1 for not intimating the Central Administrative Tribunal about the death of his elder son. The applicant

claims in paragraph 4.8 of his application that he had explained the reasons to the "respondents". If it was so, he could have sent that reply or repeated the information communicated earlier. Applicant no.1 appears to have suppressed this information so that he ~~was~~ not be proceeded against legally. Besides the second son Shri Rizwanullah is said to be eighteen years of age in the present application made on 13.9.94. He must have been a minor at the time of death of his elder son and was much below the age at which he could have been employed. In any case the impugned letter is innocuous and can be disregarded now.

8. In view of the discussion in the last three paragraphs relief no. 1 is inadmissible and relief no.2 is unnecessary. Hence, the application is dismissed.

9. There shall be no order as to costs.

Member-A

Compared
19/12/95